FILED
MAR 10 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

Petitioner, In Pro Per

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Petitioner, ORANGE v. HEDGEPETH Respondent.	No. 3:07-CV-02066-JLS NOTICE OF APPEAL

Petitioner ,, appearing in pro per, hereby appeals from the Judgment of the court dismissing the Petition for Writ of Habeas Corpus in the above-entitled action. Said Judgment was entered on 1-8-08, by Hon. J.L. SAMMARTINO

Concurrently herewith, Petitioner requests that the District Court issue a Certificate of Apppealability. An application for COA is being contemporaneously filed.

Dated: 3-3-08

Eugene Orange
Petitioner, In Propria Persona
3-3-08

07 CV 0749-J NLS

CASE NAME: EUGENE ORANGE

CASE NUMBER: 07 CV 2066 JLS WMC

PROOF OF SERVICE BY MAIL
(C.C.P 1013(a), 2015.5; 28 U.S.C. 1746)

I, EUGENE ORANGE am an incarcerated inmate of the City of DELANO County of KERN State of California. I am over the age of eighteen (18) and am a party to the action. My mailing address is BOX 5103 DELANO, CA 93216-5103

On MARCH 3, 2008, I served the following:

COURT PAPERS OF THE OFFICERS AT KERN VALLEY STATE PRISON P.O. BOX 5103 DELANO, CA 93216-5103

On the party(s) listed below by placing a true copy(s) thereof, enclosed in a sealed envelope(s), with postage fully paid, in the United States Mail as follow:

U.S.D.C. S.D. OF CAL
880 FRONT ST RM: 4290
SAN DIEGO, CA 92101-8900

C.A.G
110 W. A. ST STE 1100
SAN DIEGO, CA
92101

There is delivery service by the United States Postal Service at the place so addressed and/or there is regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed this 3RD day of MARCH, 2008.

Eugene Orange

Declarant / Server

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

EUGENE ORANGE, Petitioner, v. A. HEDGEPETH, Warden, Respondent.	Civil No. 07cv2066 JLS (WMc) **ORDER:** **(1) DISMISSING FIRST AMENDED PETITION AS DUPLICATIVE [Doc. No. 4];** **(2) DISMISSING APPLICATION TO PROCEED IN FORMA PAUPERIS AS MOOT [Doc. No. 5.] ; and** **(3) DISMISSING MOTION FOR STAY AS MOOT [Doc. No. 6]**

On October 22, 2007, Petitioner, a state prisoner proceeding pro se, submitted a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. [Doc. No. 1.] On November 15, 2007, this Court dismissed Petitioner's case for failure to pay the filing fee or move to proceed in forma pauperis, and name a proper respondent. [Doc. No. 3.] On December 12, 2007, Petitioner filed a First Amended Petition, together with a Request to Proceed In Forma Pauperis, and a Motion for Stay and Abeyance.

Upon further review, it appears that Petitioner has filed two identical petitions with this Court. On April 23, 2007, a petition identical to the present First Amended Petition was filed in case number 07cv0749. The Court may dismiss a duplicative petition as frivolous if it "merely repeats pending or previously litigated claims." Cato v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (citations omitted). In addition, Petitioner filed identical Requests to Proceed In Forma Pauperis in both cases, as well as a Motion for Stay and Abeyance in each case based on the same grounds.

In light of the above, the Court **DISMISSES** this case because the First Amended Petition in this case is duplicative of the original petition filed in case number 07cv0749. The Court further **DISMISSES** as **MOOT** Petitioner's Request to Proceed In Forma Pauperis and Motion for Stay and Abeyance in the present action. The Clerk shall close the file.

IT IS SO ORDERED.

DATED: January 8, 2008

Janis L. Sammartino

Honorable Janis L. Sammartino
United States District Judge

Notice of Appeal Notification Form

To: Clerk, U.S. Court of Appeals **Date:** 03/12/08
From: U.S. District Court, Southern District of California
Subject: New Appeals Case Information & Docket Fee Notification

Case Information

Case Title: Eugene Orange v. Hedgepeth, et al

U.S.D.C. No.: 07cv2066 JLS (WMc) U.S.D.C. Judge: Janis L. Sammartino

Complaint/Indictment/Petition Filed: Petition for Writ of Habeas Corpus

Appealed Order Entered: 1/8/2008

Notice of Appeal Filed: 3/10/2008

Court Reporter: n/a

COA Status: ☐ Granted in full/part (appeal only) ☐ Denied (send clerk's file)

Docket Fee Notification

Docket Fee: ☐ Paid ☒ Not Paid ☐ No Fee Required

USA/GOVT. APPEAL: ☐ Yes ☒ No

Date F/P granted (Show Date and Attach Copy of Order): ______

Was F/P Status Revoked? ☐ Yes ☐ No

Companion Case(s): (Please list consolidated cases, if applicable) ______

Counsel Information

Appellant Counsel:

Eugene Orange
V-64598

Kern Valley State Prison
PO Box 5103
Delano, CA 93216

Appellee Counsel:

Attorney General
Office of the Attorney General, State of CA

110 West A Street
Suite 1100
San Diego, CA 92101-5266

(619) 645-2076

Counsel Status: ☐ Retained ☐ Appointed ☒ Pro Se

Appointed by: ______
(Attach copy of order/minutes)

Defendant Information

Prisoner ID Number: V-64598

Bail: ______________________

Custody: x______________________

SERVICE LIST

Counsel for Appellant(s) and Appellee(s), as listed on the previous page, have been sent copies of the following items:

x	Transmittal of U.S.C.A. (Appellant and Appellee)
x	Case Information/Docketing Fee Notification Form. (Appellant Only)
x	Notice of Appeal. (Appellant, Appellee, U.S. District Judge, USPO, and Court Reporter)
x	Docket Entries (Appellant and Appellee)
x	Designation of Reporter's Transcript and Ordering Form. (Appellant Only, mailed separately)
	Order for Time Schedule. (Criminal Only) (Appellant, Appellee, and Court Reporter)
	Magistrate Judge's Report and Recommendation
	COA Order
	F/P Order
	Minute Order
x	Other: Order Dismissing First Amended Petition entered 1/8/2008

Form Completed And Documents Served By U.S. District Court Deputy Clerk:

Lauren Hammer	L. Hammer
Deputy's Name	Deputy's Signature

UNITED STATES DISTRICT COURT

Southern District Of California
Office Of The Clerk
880 Front Street, Room 4290
San Diego, California 92101-8900
Phone: (619) 557-5600
Fax: (619) 702-9900

W. Samuel Hamrick, Jr.
Clerk of Court

To: Clerk, U.S. Court of Appeals
P.O. Box 193939
San Francisco, CA 94119-3939

Re: **USCA No:**
USDC No: **07cv2066 JLS (WMc)**
Orange v. Hedgepeth, et al

Clerk, U.S. Court of Appeals, enclosed herewith you will please find:

x	Copy of the Notice of Appeal			x		Docket Entries	
x	Case Information/Docket Fee Payment Notification Form						
	Order for Time Schedule (Criminal)						
	Original Clerk's Record in				set(s) of		volume(s).
	Reporter's transcript's transcripts in				set(s) of		volume(s).
	Exhibits in		envelope(s)		box(es)		folders(s)
	Judgement Order					F/P Order	
	CJA Form 20					Minute Order	
	Certificate of Record					Mandate Return	
	Magistrate Judge's Report and Recommendation						
	COA Order						
	Amended docket fee notification form						
	Order Appointing Counsel for Appeal						
x	Order Dismissing First Amended Petition entered 1/8/2008						
x	Please acknowledge on the enclosed copy of this transmittal						

Sincerely yours,

W. Samuel Hamrick, Jr.
Clerk of Court

Date: 03/12/08

By: **L. Hammer**
Lauren Hammer, **Deputy**